

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1533

IN THE MATTER OF:

Served April 5, 1976

Application of WASHINGTON AREA)
MINI-BUS TOURS for Certificate of)
Public Convenience and Necessity)
to Perform Charter Operations)

Application No. 900

Docket No. 306

BY THE COMMISSION:

By Application No. 900, dated December 19, 1975, Washington Area Mini-Bus Tours (Mini-Bus), the trade name for a business currently conducted by Daniel S. Carver and Kenneth R. Strickland, seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform charter operations. The application sets forth a request for authority to transport passengers, over irregular routes, in charter operations restricted to group tours, group transportation, and constructed tours, from points within the Beltway (Route 495) to points within the District of Columbia, Arlington National Cemetery, Alexandria, and Mount Vernon, Virginia, and return. Mini-Bus proposes to transport groups composed of regular passengers, aged passengers, passengers with heart conditions, wheel chair passengers, and other handicapped passengers.

Mini-Bus currently holds Certificate of Public Convenience and Necessity No. 28. That Certificate authorizes the performance of special operations limited to individually ticketed sightseeing service, over irregular routes, between points in the District of Columbia, that portion of Arlington County, Virginia, wherein is located Arlington National Cemetery and Iwo Jima Memorial, Alexandria, Virginia, and Mount Vernon, Virginia, including transportation from hotels and motels within the Metropolitan District to such points for the purpose of such sightseeing, and return. The performance of operations pursuant to that authority may be rendered in vehicles with a seating capacity of fifteen passengers excluding the driver and special accommodations for two additional wheel-chair passengers.

By Order No. 1490, served January 29, 1976, the Commission scheduled a public hearing which was held March 5, 1976. No protests were filed to the application. The findings to be made by the Commission, after hearing, with respect to applications for certificates of public convenience

and necessity are set forth in Title II, Article XII, Section 4(b) of the Compact. The Commission must make two separate findings. First, the applicant must be "fit, willing and able" to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder. Second, the proposed transportation "must be or will be required" by the public convenience and necessity.

Mini-Bus seeks Commission approval to operate charter service. Mini-Bus submits that authority to perform charter service is essential to the maintenance of its existence during the months of January, February, and December. Mini-Bus also submits that charter service generates greater dollar revenues per dollar of costs than individually-ticketed service. According to Mini-Bus, there are fewer pick-up points to be served when rendering charter service. Mini-Bus stated that constructed tours would be designed primarily for handicapped persons who apparently would specify the time and stops.

The handicapped or disabled passenger is confronted with difficulties in boarding and alighting from conventional motor coaches. These difficulties can be ameliorated through the use of vehicles specially equipped with doors and ramps or lifts designed for easy access. Mini-Bus would render the proposed service in this type of specially equipped van with a seating capacity of fifteen passengers plus accommodations for two wheelchairs. A row of removable seats provides space for placement of additional wheelchairs.

The charter service proposed by Mini-Bus consists of three separate operations. First, any group of ten persons or more would be entitled to a discount on the per capita fare for each of the individually-ticketed sightseeing tours offered by Mini-Bus. Second, any group could construct a tour for Mini-Bus to provide. Third, Mini-Bus would transport groups for purposes other than sightseeing.

The Commission's Regulation 51-06 defines charter operation as the transportation of a group of passengers who, pursuant to a common purpose and under a single contract, has acquired the exclusive use of a vehicle or vehicles to travel together. Mini-Bus would not be rendering charter operations when it extended a discount rate to a group of ten persons or more when boarding one of its currently structured tours. Such pricing methods merely would constitute a reduction in per capita fares. Accordingly, the Commission shall deny this portion of Mini-Bus' Application No. 900. However, the Commission, sua sponte, shall consider hereinafter the proposed rate structure as a requested supplement to its current WMATC Tariff No. 1.

The Commission believes that the record supports a finding that Mini-Bus is fit, willing and able to perform the proposed transportation

properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder. The Commission further believes that a grant of the application would make available to handicapped and disabled persons a needed transportation service. Accordingly, the Commission finds that the public convenience and necessity requires the approval of Mini-Bus' application for authority to perform charter operations with respect to the transportation of handicapped or disabled passengers.

With respect to the transportation of groups not containing handicapped or disabled passengers, the Commission finds that the record contains no evidence supporting a grant of the charter operation application. The record does not contain evidence that the public convenience and necessity requires the approval of Mini-Bus' application for authority to perform charter operations involving the transportation of groups of non-handicapped or able passengers. Mini-Bus stated that it did not believe it could operate a charter service restricted to the group transportation of handicapped or disabled passengers. Mini-Bus submitted that such transportation would require the removal of a row of seats and, thereby, reduce the capacity for per capita passengers. Such reduction in capacity would not vary the amount of revenue generated by performing constructed sightseeing tours or non-sightseeing charter operations. Furthermore, in view of the previous finding with respect to discounted per capita sightseeing on structured tours, the loss of revenues no longer justifies a grant of charter operations with respect to non-handicapped or able passengers. Accordingly, this portion of Mini-Bus' application shall be denied.

The Compact bestows upon the Commission "the power to attach to the issuance of a certificate and to the exercise of rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require". See Compact, Title II, Article XII, Section 4(b). This grant of power to the Commission is subject to a restriction not herein relevant. The Commission believes that the authority granted Mini-Bus should contain a reasonable term and condition. With respect to the term, as previously indicated, Mini-Bus has shown that the public convenience and necessity require the transportation of handicapped and disabled persons. The Commission believes that the authority should provide for the incidental transportation of other persons travelling in the preformed group with the handicapped or disabled passenger. With respect to the condition, Mini-Bus' current special operations authority is subject to a vehicle restriction. The Commission believes that the charter authority should be restricted to provide for transportation services in vehicles which accommodate not more than 17 passengers excluding the driver and including special accommodations for not less than two wheelchair passengers.

An additional matter was considered at the hearing with respect to the area and points to be served. Mini-Bus indicated that it desired to provide service to the Capital Centre in Largo, Maryland. The physical situs of the Capital Centre is beyond the Beltway. The Commission believes that the public interest would be served by permitting Mini-Bus to serve points within the Beltway and adjacent thereto. This description of the area of operations would include the Capital Centre.

The Compact requires each carrier to "file with the Commission, and keep open to public inspection, tariffs showing (1) all fares it charges for transportation subject to this Act, . . . , and (2) to the extent required by regulations of the Commission, the regulations and practices of such carrier affecting such fares." See Compact, Title II, Article XII, Section 5(a). Mini-Bus filed as part of its application a schedule of rates. See Order No. 1490, served January 29, 1976. At the hearing Mini-Bus requested that the schedule of rates be amended.

The Commission shall approve the discount rate applicable to the per capita fare for groups of ten persons or more. This discount rate would be a 20 percent reduction. Such rates would be just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

Mini-Bus proposes the following rate structure for constructed tours.

<u>Vehicle Capacity</u> <u>(Designed Max.)</u>	<u>Rate Per</u> <u>Hour</u>	<u>Minimum</u> <u>Charge</u>
11 passenger	\$18	\$72
14 passenger	20	80
15 passenger	21	84

Mini-Bus also proposes the following rate structure for non-sightseeing charter service.

<u>Vehicle Capacity</u> <u>(Designed Max.)</u>	<u>Rate Per</u> <u>Hour</u>	<u>Minimum</u> <u>Charge</u>
11 passenger	\$16	\$64
14 passenger	18	72
15 passenger	19	76

Mini-Bus submitted a summary statement of revenues and revenue deductions for the period August 1, 1975, to October 31, 1975, related to special operations. That statement indicates operating revenues

\$14,422 and operating revenue deductions, excluding any compensation to either Daniel S. Carver or Kenneth R. Strickland, \$6,963.36. The revenue margin for the period was \$7,458.64. Mini-Bus also submitted a statement projecting charter revenues and revenue deductions for the 12-month period ending February 28, 1977. That statement indicates operating revenues \$23,750 and operating revenue deductions \$16,000. The result would be \$7,750 net income after taxes from charter operations.

The Commission finds that projected charter revenues would be compensatory. The Commission believes that the proposed rate structures for constructed tours and non-sightseeing charter service are just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

The Commission has considered the other matters presented by the record but finds they do not warrant action contrary to that which now is directed.

THEREFORE, IT IS ORDERED:

1. That Application No. 900 of Washington Area Mini-Bus Tours be, and it is hereby, granted in part and denied in part as specified herein.

2. That Certificate of Public Convenience and Necessity No. 28 issued to Washington Area Mini-Bus Tours be, and it is hereby, modified to include the following:

IRREGULAR ROUTES:

CHARTER OPERATIONS, limited to the transportation of handicapped and disabled passengers and other passengers travelling in a preformed group with the handicapped and disabled passengers, together with their baggage,

(A) Between points within or adjacent to the Beltway (Route 495)

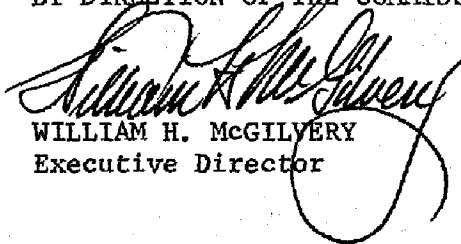
(B) From points within the Beltway (Route 495) to points within the District of Columbia, Arlington National Cemetery, Alexandria, and Mount Vernon, Virginia, and return.

RESTRICTED to transportation in vehicles with a designed capacity of not more than 17 passengers excluding the driver and including special accommodations for not less than two wheelchair passengers.

3. That Washington Area Mini-Bus Tours be, and it is hereby, directed to file two copies of Supplement No. 2 to its WMATC Tariff No. 1

in accordance with the approval hereinbefore set forth with respect to discounted per capita sightseeing fares for groups of ten persons or more and the charter operations authority hereinbefore granted, such supplement to be effective upon acceptance by the Executive Director.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in dark ink, appearing to read "William H. McGilvery", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

WILLIAM H. MCGILVERY
Executive Director